

## **CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1437**

**Citations Affected:** IC 10-13-3-36; IC 25-1-9-7; IC 25-1-9-15; IC 25-23-1; IC 25-29-6-1; IC 34-30-2-99.4.

**Synopsis:** Health professions bureau. Conference committee report for EHB 1437. Exempts the health professions bureau (bureau) from paying a fee to obtain a limited criminal history record when investigating the background of a license applicant. Authorizes a health professions board to order a practitioner to submit to a physical or mental examination at the practitioner's expense and to require a practitioner to pay the administrative law judge costs in a disciplinary hearing. Adds an advanced practice nurse (APN) to the Indiana state board of nursing (board) and makes other changes to make up of the board. Changes the quorum requirements for the board. Provides that a license to practice podiatric medicine expires every two years. Requires the health professions bureau to randomly audit APN practice agreements and sets forth parameters of the audit. Requires rules concerning renewal of APN agreements. **(This conference committee report makes the following changes: (1) Removes prohibition that registered nurse members of the board may not be APN's. (2) Amends audit procedures. (3) Requires rules concerning renewal of APN agreements. (4) Adds civil immunity for providing patient information to the bureau.)**

**Effective:** July 1, 2003.

Adopted

Rejected

## CONFERENCE COMMITTEE REPORT

**MR. SPEAKER:**

*Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill No. 1437 respectfully reports that said two committees have conferred and agreed as follows to wit:*

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 10-13-3-36, AS ADDED BY SEA 257-2003,
- 3 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2003]: Sec. 36. (a) The department may not charge a fee for
- 5 responding to a request for the release of a limited criminal history
- 6 record if the request is made by a nonprofit organization:
- 7 (1) that has been in existence for at least ten (10) years; and
- 8 (2) that:
- 9 (A) has a primary purpose of providing an individual
- 10 relationship for a child with an adult volunteer if the request is
- 11 made as part of a background investigation of a prospective adult
- 12 volunteer for the organization;
- 13 (B) is a home health agency licensed under IC 16-27-1;
- 14 (C) is a community mental retardation and other developmental
- 15 disabilities center (as defined in IC 12-7-2-39); or
- 16 (D) is a supervised group living facility licensed under
- 17 IC 12-28-5.
- 18 (b) The department may not charge a fee for responding to a request
- 19 for the release of a limited criminal history record made by the division

of family and children or a county office of family and children if the request is made as part of a background investigation of an applicant for a license under IC 12-17.2 or IC 12-17.4.

(c) The department may not charge a fee for responding to a request for the release of a limited criminal history if the request is made by a school corporation, special education cooperative, or non-public school (as defined in IC 20-10.1-1-3) as part of a background investigation of an employee or adult volunteer for the school corporation, special education cooperative, or nonpublic school.

**(d) The department may not charge a fee for responding to a request for the release of a limited criminal history record made by the health professions bureau established by IC 25-1-5-3 if the request is:**

**(1) made through the computer gateway that is administered by the intelenet commission under IC 5-21-2 and known as accessIndiana; and**

**(2) part of a background investigation of a practitioner or an individual who has applied for a license issued by a board (as defined in IC 25-1-9-1).**

SECTION 2. IC 25-1-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. The board may order a practitioner to submit to a reasonable physical or mental examination, **at the practitioner's own expense**, if the practitioner's physical or mental capacity to practice safely is at issue in a disciplinary proceeding.

SECTION 3. IC 25-1-9-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. Practitioners who have been subjected to disciplinary sanctions may be required by a board to pay for the costs of the proceeding. The practitioner's ability to pay shall be considered when costs are assessed. If the practitioner fails to pay the costs, a suspension may not be imposed solely upon the practitioner's inability to pay the amount assessed. These costs are limited to costs for the following:

- (1) Court reporters.
- (2) Transcripts.
- (3) Certification of documents.
- (4) Photoduplication.
- (5) Witness attendance and mileage fees.
- (6) Postage.
- (7) Expert witnesses.
- (8) Depositions.
- (9) Notarizations.

**(10) Administrative law judges.**

SECTION 4. IC 25-23-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) There is established the Indiana state board of nursing consisting of ~~eight (8)~~ **nine (9)** members appointed by the governor, each to serve a term of four (4) years subject to death, resignation, or removal by the governor.

**(b) Five (5) Six (6)** of the board members must be registered nurses who are committed to advancing and safeguarding the nursing profession as a whole. Two (2) of the board's members must be

licensed practical nurses. One (1) member of the board, to represent the general public, must be a resident of this state and not be associated with nursing in any way other than as a consumer.

~~(b)~~ (c) Each appointed board member may serve until the member's successor has been appointed and qualified. Any vacancy occurring in the membership of the board for any cause shall be filled by appointment by the governor for the unexpired term. Members of the board may be appointed for more than one (1) term. However, no person who has served as a member of the board for more than six (6) consecutive years may be reappointed. Reappointments of persons who have served six (6) consecutive years as a member of the board may be made after three (3) years have elapsed.

SECTION 5. IC 25-23-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) The board shall meet annually. At its first meeting of the calendar year, it shall elect from the membership a president, a vice president, and a secretary. It shall hold such other meetings during the year as may be necessary for the transaction of its business.

~~(b) Three (3) registered nurse members, including one (1) officer of the board, constitute a quorum for consideration of all matters pertaining to registered nursing. A majority vote of the quorum is required for action of the board.~~

~~(c) One (1) licensed practical nurse member and three (3) registered nurse members of the board, including one (1) officer, constitute a quorum for consideration of all matters pertaining to practical nursing. A majority vote of the quorum is required for action of the board.~~

**(b) Five (5) members of the board constitute a quorum. An affirmative vote of a majority of the members appointed to the board is required for action of the board.**

SECTION 6. IC 25-23-1-7, AS AMENDED BY P.L.181-2002, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) The board shall do the following:

(1) Adopt under IC 4-22-2 rules necessary to enable it to carry into effect this chapter.

(2) Prescribe standards and approve curricula for nursing education programs preparing persons for licensure under this chapter.

(3) Provide for surveys of such programs at such times as it considers necessary.

(4) Accredite such programs as meet the requirements of this chapter and of the board.

(5) Deny or withdraw accreditation from nursing education programs for failure to meet prescribed curricula or other standards.

(6) Examine, license, and renew the license of qualified applicants.

(7) Issue subpoenas, compel the attendance of witnesses, and administer oaths to persons giving testimony at hearings.

(8) Cause the prosecution of all persons violating this chapter and have power to incur necessary expenses for these prosecutions.

(9) Adopt rules under IC 4-22-2 that do the following:

(A) Prescribe standards for the competent practice of registered,

practical, and advanced practice nursing.

(B) Establish with the approval of the medical licensing board created by IC 25-22.5-2-1 requirements that advanced practice nurses must meet to be granted authority to prescribe legend drugs and to retain that authority.

**(C) Establish, with the approval of the medical licensing board created by IC 25-22.5-2-1, requirements for the renewal of a practice agreement under section 19.4 of this chapter, which shall expire on October 31 in each odd-numbered year.**

(10) Keep a record of all its proceedings.

(11) Collect and distribute annually demographic information on the number and type of registered nurses and licensed practical nurses employed in Indiana.

(12) Adopt rules and administer the interstate nurse licensure compact under IC 25-23.2.

(b) The board may do the following:

(1) Create ad hoc subcommittees representing the various nursing specialties and interests of the profession of nursing. Persons appointed to a subcommittee serve for terms as determined by the board.

(2) Utilize the appropriate subcommittees so as to assist the board with its responsibilities. The assistance provided by the subcommittees may include the following:

(A) Recommendation of rules necessary to carry out the duties of the board.

(B) Recommendations concerning educational programs and requirements.

(C) Recommendations regarding examinations and licensure of applicants.

(3) Appoint nurses to serve on each of the ad hoc subcommittees.

(4) Withdraw from the interstate compact under ~~IC 25-32.2~~.  
**IC 25-23.2.**

(c) Nurses appointed under subsection (b) must:

(1) be committed to advancing and safeguarding the nursing profession as a whole; and

(2) represent nurses who practice in the field directly affected by a subcommittee's actions.

SECTION 7. IC 25-23-1-19.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 19.8. (a) Before December 31 of an even-numbered year, the bureau or the bureau's designee shall randomly audit at least one percent (1%) but not more than ten percent (10%) of the practice agreements of advanced practice nurses with authority to prescribe legend drugs under section 19.5 of this chapter to determine whether the practice agreement meets the requirements of this chapter or rules adopted by the board.**

**(b) The bureau shall establish an audit procedure, which may include the following:**

**(1) Requiring the advanced practice nurse to provide the bureau with a copy of verification of attendance at or**

1 completion of a continuing education course or program the  
 2 advanced practice nurse attended during the previous two (2)  
 3 years.

4 (2) Requiring the advanced practice nurse and the licensed  
 5 practitioner who have entered into a practice agreement to  
 6 submit information on a form prescribed by the bureau that  
 7 must include a sworn statement signed by the advanced  
 8 practice nurse and the licensed practitioner that the parties are  
 9 operating within the terms of the practice agreement and the  
 10 requirements under this chapter or rules adopted by the board.

11 (3) Reviewing patient health records and other patient  
 12 information at the practice location or by requiring the  
 13 submission of accurate copies to determine if the parties are  
 14 operating within the terms of the practice agreement and the  
 15 requirements under this chapter or rules adopted by the board.

16 (4) After a reasonable determination that the advanced  
 17 practice nurse and the licensed practitioner who have entered  
 18 into a practice agreement are not operating within the terms  
 19 of the practice agreement, requiring the parties to appear  
 20 before the bureau or the bureau's designee to provide evidence  
 21 of compliance with the practice agreement.

22 (c) Not more than sixty (60) days after the completion of the  
 23 audit required in subsection (a), the bureau shall provide the board  
 24 with the following:

25 (1) A summary of the information obtained in the audit.

26 (2) A statement regarding whether an advanced practice nurse  
 27 and a licensed practitioner who have entered into a practice  
 28 agreement that is audited under subsection (a) are operating  
 29 within the terms of the practice agreement.

30 The bureau shall also provide a copy of the information described  
 31 in this subsection to the board that regulates the licensed  
 32 practitioner.

33 (d) The bureau may cause to be served upon the advanced  
 34 practice nurse an order to show cause to the board as to why the  
 35 board should not impose disciplinary sanctions under IC 25-1-9-9  
 36 on the advanced practice nurse for the advanced practice nurse's  
 37 failure to comply with:

38 (1) an audit conducted under this section; or

39 (2) the requirements of a practice agreement under this  
 40 chapter.

41 (e) The board shall hold a hearing in accordance with IC 4-21.5  
 42 and state the date, time, and location of the hearing in the order  
 43 served under subsection (d).

44 (f) The board that regulates the licensed practitioner may cause  
 45 to be served upon the licensed practitioner an order to show cause  
 46 to the board as to why the board should not impose disciplinary  
 47 sanctions under IC 25-1-9-9 on the licensed practitioner for the  
 48 licensed practitioner's failure to comply with:

49 (1) an audit conducted under this section; or

50 (2) the requirements of a practice agreement under this  
 51 chapter.

1       **(g) The board that regulates the licensed practitioner shall hold**  
2       **a hearing in accordance with IC 4-21.5 and state the date, time,**  
3       **and location of the hearing in the order served under subsection (f).**

4       **(h) An order to show cause issued under this section must comply**  
5       **with the notice requirements of IC 4-21.5.**

6       **(i) The licensed practitioner may divulge health records and**  
7       **other patient information to the bureau or the bureau's designee.**  
8       **The licensed practitioner is immune from civil liability for any**  
9       **action based upon release of the patient information under this**  
10       **section.**

11       SECTION 8. IC 25-29-6-1 IS AMENDED TO READ AS FOLLOWS  
12       [EFFECTIVE JULY 1, 2003]: Sec. 1. A license to practice podiatric  
13       medicine expires ~~four~~ **(4) years after the license is issued on a date**  
14       **established by the bureau under IC 25-1-5-4 in each odd-numbered**  
15       **year.**

16       SECTION 9. IC 34-30-2-99.4 IS ADDED TO THE INDIANA CODE  
17       AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
18       1, 2003]: **Sec. 99.4. IC 25-23-1-19.8(i) (Concerning licensed**  
19       **practitioners who release health records and patient information**  
20       **to the health professions bureau).**

(Reference is to EHB 1437 as printed April 4, 2003.)

**Conference Committee Report**  
**on**  
**Engrossed House Bill 1437**

**S**igned by:

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Representative Welch  
Chairperson

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Senator Riegsecker

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Representative Becker

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Senator Breaux

**House Conferees**

**Senate Conferees**